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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,025	07/17/2003	Luc deBoer	122462.00002.005	1677
30544	7590	08/23/2005	EXAMINER	
JACKSON WALKER, L.L.P. SUITE 2100 112 EAST PECAN ST. SAN ANTONIO, TX 78205			COLLINS, GIOVANNA M	
		ART UNIT	PAPER NUMBER	3672

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/622,025	DEBOER, LUC	
	Examiner Giovanna M. Collins	Art Unit 3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 06 June 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9, 13 and 17-20 is/are rejected.
- 7) Claim(s) 10-12, 14-16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1, the applicant recites in line 17, "a second fluid column comprising a second fluid". It is unclear whether this fluid is the same second fluid disclosed in line 14, or a different fluid.

Furthermore, claim 1 recites the limitation "said second fluid" in line 19. There is insufficient antecedent basis for this limitation in the claim as it is unclear which second fluid is being referred to.

Claims 2-8 depend from claim 1 and likewise are indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2,7-9,13,17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson.

Referring to claims 1 and 19, Ferguson discloses in well drilling operations a system for controlling the balancing of drilling fluid in a wellbore having a first end adjacent the surface and a second end said system comprising a drill string (21) having a top end and a bottom end, the top end of said string being located at the surface, the bottom end of said drill string being located in the wellbore adjacent the second end of said wellbore, said drill string for delivering a first fluid having a first density from the surface to the wellbore; bit (31) connected to the bottom end of the string and first fluid (at 24) having a first density disposed in said drill string; a wellhead injection apparatus (11,13) extending into said wellbore from said first end of the wellbore to a location removed from said second end of the wellbore, said injection apparatus for delivering a second fluid having a second density from the surface into the wellbore , a second fluid (from 42) having a second density disposed in said wellbore at a location (at 16) removed from said second end (at 16) of said wellbore first fluid column (near element 21 in fig. 3) comprising said first fluid formed in said wellbore; and a second fluid column (at 13 in fig. 3) comprising a second fluid formed in said wellbore between said first fluid column and said first end of the wellbore wherein the second fluid has a density greater than the density of the first fluid (col. 3, lines 51-53) such that a gradient (between element 21 and bottom of element 13 in fig. 3) is formed between the first and second fluid column.

Referring to claim 2, Ferguson discloses a drilling rig (page 1, liens 5-8).

Referring to claims 7 and 18, Ferguson discloses the well bore is substantially vertical and the second fluid column (at 13) is located above the first fluid column (bottom or element 21).

Referring to claim 8, Ferguson discloses the wellbore has a cased section (at 13) and a uncased production section (near bottom of element 21) and the injection apparatus (13) extending to a location within said cased section and the second fluid (at 13) is disposed within said cased section.

Referring to claim 9, Ferguson discloses a method for balancing the pressure in a wellbore defined by a first end adjacent the surface and a second end below the surface said wellbore having a drill string (21) extending from above the wellbore to a location adjacent the second end of said wellbore said method comprising: the steps of: (a) introducing (at 24) a first fluid having a first density into the drillstring (b) discharging (at bottom of 21) said first fluid from said drill string adjacent the second end of said wellbore to form a first column of fluid within said wellbore (c) introducing (at 16 a second fluid having a second density greater than the first density into said wellbore at a location (at 16) removed from said second end of said wellbore to form a second column (at 13) of fluid within said wellbore wherein said second column of fluid is formed between said first column and said first end of said wellbore and establishing a gradient (between element 21 and bottom of element 13 in fig. 3) between the first and second columns.

Referring to claim 13, Ferguson discloses the first fluid is introduced via an injection member (11,13).

Referring to claim 17, Ferguson discloses the first fluid is discharged into an uncased production zone (bottom of element 21) and the second fluid is introduced in a cased section (at 16) that is removed from the second end of the wellbore.

Referring to claim 20, Ferguson disclose the first fluid column is formed substantially the uncased production section (bottom of element 21) and the second fluid column is formed substantially inside cased section (at 13).

#### ***Allowable Subject Matter***

3. Claims 10-12 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

4. Applicant's arguments filed 6/6/05 have been fully considered but they are not persuasive. In response to the argument concerning the Ferguson reference, first, the second fluid is introduced into the wellbore at element 16 which is removed from a second end of the wellbore. Secondly concerning how the second fluid is introduced, Ferguson clearly states, on page 8, line s 29-35, the second fluid goes through the space outside a casing (13) around the bottom of the casing and back up through casing as seen in fig. 3. Furthermore , figure 3, clearly show two fluid columns. The first column is near bottom of element 21 and second column is formed at element 13.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Giovanna M. Collins whose telephone number is 571-272-7027. The examiner can normally be reached on 6:30-3 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
gmc

  
**David Bagnell**  
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